

CHAPTER 3 EMPLOYMENT PRACTICES

Section 1. Equal Employment Opportunity (EEO) Policy

- 1.1 The Office of Management and Budget prohibits discrimination on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours; to prevent and eliminate discrimination in employment relations, public accommodations, housing, state and local government services, and credit transactions; and to deter those who aid, abet, or induce discrimination, or coerce others to discriminate. All divisions of the Office of Management and Budget shall conduct all programs and activities in accordance with this policy.
- 1.2 All persons within the Office of Management and Budget with authority to initiate and implement personnel actions, as well as those with substantial involvement with such actions, must be fully aware of, and ensure compliance with, this EEO policy.
- 1.3 The following principles, among others, will be strictly observed:
 - a. Pre-employment consideration and promotional opportunities must be given on a non-discriminatory basis.
 - b. Employees are expected to work with one another in a cooperative manner at all times.

Section 2. Sexual Harassment Policy

- 2.1 The policy of the Office of Management and Budget is to provide an environment free of sexual harassment. Such harassment may include sex-oriented remarks or jokes, pressures or demands for sexual favors, implied or overt promises or threats, or any unwelcome conduct with sexual overtones.
- 2.2 Sexual harassment generally occurs in supervisor/subordinate, or peer/co-workers situations. Any supervisor using implicit or explicit sexual behavior to control or affect any aspect of the job of a subordinate is engaging in sexual harassment. Such action must be reported to the next level supervisor or the division's personnel analyst at Central Personnel. Individuals experiencing harassment from co-workers shall make it clear that such behavior is offensive and unwanted. If this doesn't resolve the problem, the appropriate supervisor must be notified. Supervisors are expected to resolve this situation by: 1) referencing this policy, or 2) more direct disciplinary action if necessary.
- 2.3 Sexual harassment **will not be tolerated** by the Office of Management and Budget. Disciplinary action can and will be taken against any employee who engages in sexual harassment. An individual making a false accusation may also be subject to disciplinary action.

Section 3. Recruitment, Selection, and Career Advancement

- 3.1 All divisions of the Office of Management and Budget are encouraged, whenever possible and reasonable, to fill a vacancy internally by promoting qualified, permanent employees. It should, however, be the ultimate desire of each division to obtain the best qualified person to fill the vacancy regardless of the method utilized. Division directors should post position vacancies in all divisions of the Office of Management and Budget in areas accessible to all employees for a minimum of three working days.
- 3.2 Qualified applicants for positions in the Office of Management and Budget must be United States citizens or provide proof that they may lawfully work in the United States.
- 3.3 Recruiting efforts outside the agency must be planned and carried out in a manner that ensures open competition. This means that each such vacant position must be made known to the public through appropriate cost effective methods, and that applicants must be considered on their job-related merits only.
- 3.4 Temporary employees may be considered for internal recruitment only if they were initially hired through an open and competitive recruitment and hiring process.
- 3.5 The Central Personnel Division must be advised of all position vacancies subject to recruitment outside the agency. The division must be notified by either furnishing a completed vacancy announcement, or an appropriate memo.
- 3.6 Veterans Preference: Veterans are entitled to preference in employment by the Office of Management and Budget in accordance with NDCC 37-19.1.

Section 4. Americans With Disabilities Act (ADA)

- 4.1 The policy of the Office of Management and Budget is to ensure complete compliance with the ADA.
- 4.2 Managers shall identify the essential functions of a position before beginning any recruiting effort.
- 4.3 The Director of OMB has the final decision whether a request for an accommodation poses an undue hardship.
- 4.4 Any employee who feels discriminated against because of their disability may file a grievance in accordance with Chapter 10 of this manual.

Section 5. Workplace Threats and Violence

- 5.1 The Office of Management and Budget is concerned and committed to its employees' safety and health. We refuse to tolerate violence in the workplace and will make every effort to prevent violent incidents from occurring by implementing a Workplace Violence Program. We will provide adequate authority and budgetary resources to responsible parties so that our goals and responsibilities can be met.

- 5.2 Violent acts or threats of violence include any activity by an individual that would cause another individual to feel unsafe due to the threat of immediate physical harm. The violent behavior may take the form of verbal threats to harm another person or damage property, physical aggression, or harassment including sexual harassment. Threats of violence include possession or display of a weapon of any type or exhibiting an object in such a manner that it appears to be a weapon.
- 5.3 Employees who are subject to or become aware of any violent acts or threats of violence shall immediately report the matter to their supervisor or any higher level authority.
- 5.4 Supervisory or management personnel who receive a report of violent activity or a threat of violence shall immediately assess the situation to determine the nature of the threat and take action as follows:
- a. When it is apparent that one or more individuals may be in immediate physical danger, the endangered employee or any observing employee should notify the nearest available security or police unit. The State Highway Patrol is responsible for security and investigations on State property. For work units within the Capitol complex call the Highway Patrol Headquarters at 328-2455. For work units not in the Capitol complex call the headquarters number or the Bismarck District Highway Patrol office at 328-9555. Alternatively call the State Radio at 328-2121 if between the hours of 8:00 a.m. to 5:00 p.m., or 1-800-472-2121 if not during those times. When action is taken by supervisory personnel, the information will be reported to the division director or the director of OMB as soon as possible.
 - b. When the danger of physical harm does not appear to be immediate, gather all available information and, when reported to supervisory personnel, provide a full report of circumstances to the division director or the director of OMB as soon as possible.
- 5.5 A division director or the director of OMB, upon receipt of a report of violence or a threat of violent activity, shall take action appropriate to the circumstances which may include requesting the proper authority to remove the violator from the work site and/or to provide appropriate protection of the threatened person(s). The division director or the director of OMB shall proceed to investigate or assign a responsible supervisor to investigate the reported incident(s) which will form the basis for any corrective or disciplinary action.
- 5.6 When a reported act of violence or threat of violent activity has been investigated, and the violator is an employee of the Office of Management and Budget, the division director or the director of OMB shall take appropriate action which may include participation by the employee in the employee assistance program, disciplinary action up to and including termination of employment and/or reporting incident(s) to law enforcement authorities.
- 5.7 When a reported act of violence or threat of violent activity has been investigated, and the violator is not an employee of the Office of Management and Budget, the division director or director will take appropriate action which may include termination of business relationships and/or reporting incident(s) to law enforcement authorities.

Section 6. Substance Abuse Policy

- 6.1 It is the Office of Management and Budget's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.
- 6.2 While on the Office of Management and Budget's premises and while conducting business-related activities off the Office of Management and Budget premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.
- 6.3 Violations of this policy may lead to disciplinary action, up to and including termination of employment, and/or participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.
- 6.4 A manager may require an employee to leave the workplace if the manager, in their discretion, determines the employee has reported to work in an inappropriate mental or physical condition and cannot perform the essential functions of the job effectively and in a safe manner that does not endanger themselves or others. The employee may be required to use a day of annual leave or sick leave. If the manager determines the employee should not operate a motor vehicle, the manager may arrange transportation for the employee. If the employee refuses to accept transportation and insists on operating a motor vehicle, they will be informed by the manager that law enforcement officials will be notified that the employee appears unfit to operate a motor vehicle. Law enforcement officials should then be appropriately notified.
- 6.5 To inform employees about important provisions of this policy, the Office of Management and Budget has established a drug-free awareness program. The program provides information on the dangers and effects of substance abuse in the workplace, resources available to employees and consequences for violations of this policy.
- 6.6 Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. They may also wish to discuss these matters with their supervisor or the Human Resources Department to receive assistance or referrals to appropriate resources in the community.
- 6.7 Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify the Office of Management and Budget of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

- 6.8 Employees with questions on this policy or issues related to drug or alcohol use in the workplace should raise their concerns with their supervisor or the Human Resources Department without fear of reprisal.